

Code of Conduct for Public Employees

Introduction

The Massachusetts conflict of interest law, Chapter 268A of the Massachusetts General Laws, prohibits public employees from soliciting or accepting gratuities of substantial value for or because of their official duties. The law covers all state, county, and municipal employees, as well as employees of independent state authorities, districts, and commissions. The State Ethics Commission, which enforces the conflict of interest law, is authorized to impose civil fines of up to \$2,000 for each violation of the law and to recover damages. The law also carries criminal penalties, including fines and terms of imprisonment.

The conflict of interest law encourages public agencies to establish and enforce standards of conduct. This Code of Conduct is designed to supplement the conflict of interest law by setting standards of conduct for all employees with respect to relationships with individuals and entities with whom the public sector conducts official business. The purpose of this Code is to preserve the integrity of these relationships and to maintain the highest level of public confidence in the impartial operation of government.

This Code prohibits certain activities that could result in a conflict of interest or create the appearance of a conflict of interest. Exceptions to the Code's prohibitions are limited to specific circumstances in which an overriding public interest is served by the exception or in which the relationship in question is primarily personal.

The Massachusetts Office of the Inspector General has developed this Code for use by public agencies throughout the Commonwealth. Five major areas are addressed by this Code: gifts and gratuities, reimbursement of travel expenses, honoraria, testimonial and retirement functions, and groundbreaking and dedication ceremonies. This Code is not all-inclusive. It does not regulate every conceivable situation in which a public employee may be offered gifts or other items of monetary value. It does not address other activities prohibited by the conflict of interest law, such as bribery, participation in official matters affecting one's financial interests or those of one's family or business, and misuse of one's official position. For information or advice on matters not covered by this Code, guidance may be sought from local counsel and from the State Ethics Commission. As used in this Code, "we" and "our" refer to the agency adopting this Code; "you" refers to the agency's employees or members.

(Revised 8/98)

Code of Conduct

I. Gifts and Gratuities

A. General Restrictions

You may not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or other item of monetary value from a person, public agency, or private entity you know or have reason to know:

1. Has had, has, or is seeking to obtain contractual or other business or financial relations with us;
2. Conducts or is seeking to conduct business or other activities that are regulated or monitored by us; or
3. Has interests that may be or may give the reasonable impression of being substantially affected by the performance or nonperformance of your official duties.

Example: You may not accept a restaurant lunch from a consultant employed by a firm under contract to us.

Example: You may not accept a Christmas gift from a vendor seeking business with us.

Example: You may not accept a ticket to a sporting event from an individual whose business we regulate.

B. Exceptions

1. You may accept gifts in cases involving a family or personal relationship when the circumstances make clear that the relationship is the motivation for the gift.
2. You may accept nonalcoholic beverages, such as coffee or tea, from public or private entities.
3. You may attend and accept food and beverages at seasonal or celebratory functions, such as Christmas, birthday, or retirement parties, hosted by public entities.
4. You may accept food and beverages in connection with attendance at working meetings held in the office of a public entity.

5. You may accept food and beverages in connection with attendance at widely attended meetings or gatherings held by a private trade or professional association in an office or other business setting when you are attending the meeting or gathering in your official capacity for informational, educational, or other similar purposes.

Example: You may accept a modest meal served in a restaurant function room in conjunction with an informational, widely attended meeting hosted by a professional association.

Example: You may not accept food and beverages at a hospitality suite hosted by one or more private firms.

6. You may accept loans from banks or other financial institutions to finance proper and usual customer activities, such as home mortgage loans and automobile loans. If the bank or financial institution is an entity with which you have or might reasonably expect to have dealings in your official capacity, you must be able to demonstrate that the loan has been granted on current customary terms; you must also provide written disclosure of the loan to your supervisor. The previous sentence does not apply if your duties or anticipated duties with respect to the bank are limited to obtaining third-party records.

7. You may accept unsolicited advertising or promotional materials of nominal value.

Example: You may accept an unsolicited, inexpensive promotional pen or calendar.

Example: You may not accept a leather portfolio.

II. Reimbursement of Travel Expenses

A. General Restrictions

You may not accept reimbursement for travel expenses from a person or entity who falls within the scope of Section IA, above.

B. Exceptions

1. If you deliver a speech or participate in a conference, we may elect to accept reimbursement from the sponsor of the speech or conference for your actual and necessary travel expenses. In this case, we – not the sponsor – will pay or reimburse you in accordance with our travel policy, and bill the sponsor for the appropriate amount.

2. If we determine that employee travel is a necessary component of a vendor evaluation process, we may elect to require competing vendors to reimburse us for actual and necessary travel expenses incurred in connection with the evaluation. In this case, we – not the vendors – will pay or reimburse you in accordance with our travel policy. The publicly advertised request for proposals or invitation for bids must set forth our procedures for calculating and billing all competing vendors for the appropriate amounts.

III. Honoraria

A. General Restrictions

1. You may not accept honoraria or other monetary compensation from an outside source in return for a public appearance, speech, lecture, publication, or discussion unless all of the following conditions are met:
2. Preparation or delivery of the public appearance, speech, lecture, publication, or discussion is not part of your official duties;
3. Neither the sponsor nor the source, if different, of the honorarium is a person or entity who falls within the scope of Section IA, above;
4. You do not use office supplies or facilities not available to the general public in the preparation or delivery of the public appearance, speech, lecture, publication, or discussion; and
5. You do not take office time for the preparation or delivery of the public appearance, speech, lecture, publication, or discussion.

Example: You may accept an honorarium for a magazine article prepared outside working hours.

Example: You may not accept an honorarium for delivering a speech in your official capacity.

B. Exceptions

1. You may accept awards, certificates, or other items of nominal value given for a speech, participation in a conference, or a public contribution or achievement.

Example: You may accept a framed certificate of appreciation.

Example: You may not accept an engraved pewter bowl.

IV. Testimonial and Retirement Functions

A. General Restrictions¹

1. You may not solicit contributions, sell tickets, or otherwise seek or accept payment for a testimonial or retirement function, or any function having a similar purpose, held for yourself or any other employee, if the contributor is a person or entity who falls within the scope of Section IA, above, and the admission price or payment exceeds the actual per-person cost of food and beverages served at the function.

Example: You may not offer or sell tickets to a testimonial dinner to contractors doing business with us if the ticket price includes a contribution toward a gift.

2. You may not accept food, beverages, or gifts at any testimonial or retirement function, or any function having a similar purpose, if such food, beverages, or gifts are paid for or subsidized by a person or entity who falls within the scope of Section IA, above.

Example: You may not accept a free admission to a retirement luncheon if the cost of your admission is paid, directly or indirectly, by one or more contractors doing business with us.

Example: You may not accept a retirement gift if the gift was paid for with the proceeds of tickets purchased by contractors doing business with us.

B. Exceptions

None.

V. Groundbreaking and Dedication Ceremonies

A. General Restrictions

1. You may not request or require any person or entity who falls within the scope of Section IA, above, to sponsor or contribute to any groundbreaking ceremony, dedication ceremony, or similar occasion involving a public works project. If we determine that a groundbreaking or dedication

¹ M.G.L. c. 268, §9A prohibits anyone from selling, offering for sale, or accepting payment for tickets to, or soliciting or accepting contributions for, testimonial dinners or functions held on behalf of anyone employed by a law enforcement, regulatory, or investigatory agency of the Commonwealth or any political subdivision of the Commonwealth. The law carries a maximum fine of \$500.

ceremony for a public works project serves a legitimate public purpose, we may elect to fund such a ceremony. We may plan and pay for the ceremony. Alternatively, we may include the ceremony-related services in the construction bid specifications for the public works project.

2. You may not accept food, beverages, or gifts at any groundbreaking ceremony, dedication ceremony, or similar occasion involving a public works project if the food, beverages, or gifts are paid for or subsidized by a person or entity who falls within the scope of Section IA, above.

B. Exceptions

None.